

Remarks:

Applicant has carefully studied the non-final Examiner's Action mailed 07/07/2004, having a shortened statutory period for response that expired 10/07/2004, and an extended statutory period for response set to expire 12/07/2004, and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings and numbered paragraphs that correspond to the centered headings and paragraph numbering employed by the Office, to ensure full response on the merits to each finding of the Office.

Claim Objections – 37 CFR. § 1.75(c)

1. Claim 5 stands objected to under 47 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative. As amended, claim 5 depends from claim 1 and as such is no longer in multiple dependent form.

2. (sic)

Claim Rejections – 35 USC § 103

3. Applicant acknowledges the quotation of 35 U.S.C. § 103(a).

4. Claims 1-4, 6-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sneeringer in view of Crooks. Reconsideration and withdrawal of this ground of rejection is requested for the following reasons.

U. S. patent No. 6,618,709 to Sneeringer discloses a system for monitoring utilities and providing a monitoring report to a user without interaction from the user.

U. S. patent No. 6,088,688 to Crooks enables a user to provide a response to a request from a utility provider to select the format of a monitoring report required. Accordingly, the response to the user's request is merely the provision of information.

(U. S. patent No. 6,553,418 to Collins et al., not relied upon by the Office, enables processing of monitored information to automatically control the monitored utility).

Thus, neither Sneeringer nor Crooks enable a user to control the utility from within the premises of the user. For example, neither of said references, considered individually or together as a whole in combination with one another, enable a user to control central heating by the user making a choice based on the monitoring data provided by the utility.

This important feature of Applicant's invention is now recited with particularity in independent claim 1, as currently amended.

Moreover, independent claim 9 is amended in a similar fashion, to further indicate that the current invention is provided for the customer's benefit and is controlled by the customer to communicate with a range of customer-selected utility providers.

More particularly, as per claims 1 and 15, the Office contends that, in the Sneeringer disclosure, "a customer or user is capable of responding via a keyboard or other selection means to allow the customer or user to select a response to the information received. Fig. 4." However, Sneeringer merely illustrates a customer PC. No disclosure is made of any means enabling a customer to control the provision of utilities from the premises of the user as recited in claim 1, currently amended.

The Office further contends that "Sneeringer does teach about the utilization of a customer PC." Yes, but only to receive information, not to control the provision of utilities.

The Office also contends that Crooks teaches the use of means such as a home computer "to allow the customer or user to select a response to the information received." Yes, but as aforesaid, Crooks merely enables a user to select the format of information received. Crooks includes no disclosure of how a customer can control the provision of utilities from the premises of the user.

As per claim 2, Applicant acknowledges that Sneeringer discloses an apparatus provided by a utility provider that relates to the metering of the consumption of a utility or utilities. However, claim 2 is dependent from claim 1 as currently amended and therefore is in condition for allowance as a matter of law.

As per claim 3, the Office contends that Sneeringer selection means "includes a series of buttons, which allow the customer or user to execute commands and responses to the information received." Yes, but the only commands that the customer can generate relate to the format or type of the report. The customer can request that information be provided in the form of a graph, for example. No control of the utility is possible.

As per claim 4, the Office contends that the customer obtains entry to the system by introduction of a coded input. Yes, but the entry into the system merely enables the customer to look at data. No control of the utility is possible.

As per claim 6, Applicant agrees that Sneeringer provides a display as part of the utility's metering apparatus in the premises. Again, the mere provision of such a display gives the user no control.

As per claim 7, Sneeringer provides no means for the customer or user to transmit control signals to the utility. Sneeringer illustrate the Internet in Fig. 3 merely because the Internet enables users to passively look at available information and to request that the information be provided in various formats. Only Applicant discloses the element of control.

As per claim 8, the Office acknowledges that Sneeringer includes no means for enabling a customer to select a particular utility provider from a pool of utility providers. However, the Office contends that Sneeringer discloses "the concept of customer having direct access to generators and picking the one, which meet their preferences." However, the Sneeringer system merely allows the owners of the generators themselves to review a customer's usage records and to submit bids to the customer. The customer then makes a choice of generators, but the bidding for the customer's business and the choice made by the customer are accomplished through the mail and other channels of communication unconnected to the Sneeringer system. Applicant's system enables a user to control such matters from the user's home by using Applicant's system, not conventional postal or telephonic methods.

Again, Crooks, like Sneeringer, merely enables a user to send commands that control the format of information provided by a utility to a user. No element of actual control of the utility is in the hands of a user of the Sneeringer or Crooks systems.

As per claim 9, the Office refers to Fig. 3 of Sneeringer and contends that Sneeringer discloses a system where "information is accessible by the user who can then transmit the data to utility providers and/or on the basis of information received from the utility provider." However, Fig. 3 merely indicates that a user may view data over the Internet, nothing more. No controlling commands may be sent by the user to the utility. The Office admits that "Sneeringer teaches all of the elements claimed with the exception of send a command or selection to one of a range of utility providers to designate to receive the said utility from a selected utility provider." The Office then takes Official Notice that "sending a command or selection to one of a range of utility providers to designate to receive the said utility from a selected utility provider is old and well known in the deregulation system involving utilities." The Office is apparently referring to the use of the postal system or telephones or the like whereby a customer may communicate with

more than one utility provider and select one of the utility providers from among the others. Such procedure neither teaches nor suggests the system recited with particularity in claim 9.

As per claim 10, Applicant agrees that Sneeringer teaches the monitoring of various utilities to determine the amount of such utilities used by a customer. However, Sneeringer provides no system whereby a user sitting within in his or her premises may send commands to various utilities over the monitoring system itself. Again, Sneeringer requires a consumer to communicate with various utilities by conventional communication methods outside the scope of the Sneeringer monitoring system.

As per claim 11, the monitoring data is merely passive data so obtaining said passive data at pre-designated time intervals as taught by Sneeringer neither teaches nor suggests Applicant's claimed subject matter.

As per claim 12, the generation by the Sneeringer system of at least one profile of usage of each utility to allow subsequent setting of utility usage and supply also lacks the element of control as claimed by Applicant.

As per claim 13, Sneeringer's allocation of usage data also lacks the claimed element of user control.

As per claim 14, Sneeringer's allocation of specified apparatus within the premises of usage of a plurality of utilities over a time period is a mere allocation lacking the important element of user control.

It follows that no combination of Sneeringer and Crooks teaches or suggests a system for monitoring utilities, providing a monitoring report to a user, and enabling a user to interact with the utility over the same monitoring system. Both Sneeringer and Crooks enable the monitoring or utilities and Crooks adds the feature of enabling a customer to select the format of a report, but neither of said references teach or suggest the system recited in Applicant's independent claims 1 and 9.

Conclusion

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 507-8558 is requested. Applicant thanks the Office for its careful examination of this important patent application.

Very respectfully,

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CERTIFICATE OF FACSIMILE TRANSMISSION

(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment A, including Introductory Comments, Amendments to the Claims, and Remarks, is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3621, Attn: Mr. Daniel L. Greene, (703) 872-9326 on November 22, 2004.

Dated: November 22, 2004


Deborah Preza